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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,789

06/13/2006

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

09/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,789	Applicant(s) FUKURO ET AL.	
	Examiner Cheryl Juska	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/06 and 09/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it is merely a reiteration of claim 1 rather than being in narrative form. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1, 5, 6, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 is indefinite because it is unclear what is meant by the phrase “the height of the cut pile portion is gradually reduced to form inclined portions having inclination angles of 0.5 to 10 degree, *respectively*.” Claim 8 is similarly rejected.
5. Claims 5 and 6 recite the limitation “fine concaves.” There is insufficient antecedent basis for this limitation in the claims.
6. Additionally, claims 5 and 6 are rejected since it is unclear what is encompassed by the phrase “fine concaves.”
7. Furthermore, the claims are indefinite because the recitation “the maximum cut pile portion height side 40% region of each of the above-mentioned inclined portions.” It is not

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known what applicant intends to encompass by the limitations of claims 5 and 6. Hence, said claims are not further treated on the merits.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10-298863 issued to Seto et al.

Seto discloses a cut pile fabric having a pattern sculpted into the cut pile (abstract and Figures). The pile fabric comprises a base fabric which may be a knit or woven fabric made of polyester, nylon, polypropylene, or acrylic fibers (i.e., “organic fiber yarns”) (machine translation, section [0029]). The pile fibers may be polyester fibers (sections [0020] and [0024]). The figures show the pile being sculpted at a gradual inclination. The pile fibers are sculpted by spray application of a fiber-shrinking agent in the desired pattern and heat treating the fabric to shrink said fibers (i.e., chemical etching method) (abstract).

Thus, Seto teaches the invention of claims 1, 4, and 8 with the exception of an explicit teaching to the angle of inclination. However, said claims are rejected as being obvious over the cited prior art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

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In re Aller, 105 USPQ 233. One skilled in the art could readily determine suitable inclination angles based upon the pattern effect desired. Therefore, claims 1, 4, and 8 are rejected.

With respect to claim 3, Seto fails to explicitly teach a pile height difference along said inclination. However, claim 3 is also rejected as being obvious over the cited prior art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. One skilled in the art could readily determine suitable pile height differentials based upon the pattern effect desired. Therefore, claim 3 is also rejected.

Regarding claim 7, Seto teaches printing with dye either simultaneously or sequentially with the fiber-shrinking agent (abstract and sections [0038] – [0041]).

With respect to claims 10 and 11, Seto teaches application of the fiber-shrinking agent via repeated spray application from spray nozzles (abstract). However, it would have been obvious to one of ordinary skill in the art to employ a known alternative method of application. For example, application of a composition via screen printing, including rotary screen printing, is well known in the art of coating and printing. Applicant is hereby given Official Notice of this fact. As such, it would have been obvious to substitute a known method for applying the fiber-shrinking agent such as via rotary screen printing since such a modification of the Seto invention would have yielded predictable results. The examiner notes that the facts asserted to be common and well-known are capable of instant and unquestionable demonstration as being well-known. To adequately traverse such a finding, applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. Therefore, claims 10 and 11 are also rejected.

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10. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10-298863 issued to Seto et al. as applied to claims 1 and 8 above and in further view of JP 2002-155451 issued to Sakata.

With respect to claims 2 and 9, While Seto fails to explicitly teach a graduated color difference along the slope of the inclined portion, said color graduation would have been obvious to one skilled in the art based upon the teachings of Seto wherein the sculpted pattern may be dyed in various manners and based upon the teachings of Sakata. Specifically, Sakata teaches it is known to have color differences along the pile length when said pile has been printed on its surface and then subsequently sculpted at an incline (machine translation, section [0005]). While the invention of Seto attempts to solve this problem of color differential, the reference nonetheless teaches to a skilled artisan a manner in which to obtain said color differential if desired for aesthetic purposes. Therefore, claims 2 and 9 are rejected as being obvious to one skilled in the art since modification of the Seto invention with the teachings of Sakata would have yielded predictable results such as a desired aesthetic pattern.

Conclusion

11. The art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at

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571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1794

cj
September 19, 2008